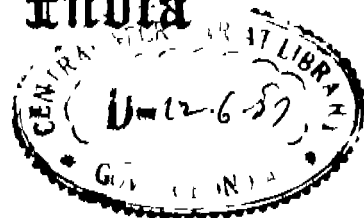


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RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 31st May, 1957:—

Bill No. XX of 1956

A Bill to provide for the declaration of certain historical records to be of national importance and to provide for their preservation and due management and certain other matters connected therewith.

BE it enacted by Parliament in the Eighth Year of the Republic of India as follows:—

1. This Act may be called the Historical Records (of National Importance) Act, 1957. Short title.

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(a) 'Director' means the Director of Archives, National Archives of India;

(b) 'Keeper' means the Keeper of a regional Record Office of the National Archives of India;

(c) 'private owner' means any person or persons who owns or own records of historical value and importance, and includes a joint owner invested with powers of management on behalf of himself and other joint owners, and any manager or trustee

exercising powers of management over such records and the successor in title of any such owner and the successor in office of any such manager or trustee:

Provided that nothing in this Act shall be deemed to extend the powers which may lawfully be exercised by such manager or trustee;

(d) 'Records' mean all written (including those on palm-leaves, metal or any other writing material) or printed rolls, accounts, plans, letters and documents whatsoever of a public nature and also those which, though, strictly speaking, not of a public nature, but are of historical value and importance;

(e) 'State' means a State specified in the First Schedule of the Constitution of India.

Declaration
of certain
historical
Records to
be of
national
importance.

3. (1) The historical records referred to or specified in the Schedule are hereby declared to be historical records of national importance.

(2) The Central Government may, by notification in the Official Gazette, declare any other historical records, already in the custody and control of the Director, to be historical records of national importance:

Provided that in the case of records belonging to any State or private owner such a declaration shall in no way affect, alter or annul the title thereto, or any proprietary right therein, of the State or private owner concerned.

(3) Every notification issued under sub-section (2) shall be laid before both the Houses of Parliament and shall take effect only after it has been so laid for not less than thirty days which may be comprised in one session or more than one session.

Custody and
preservation
of Records.

4. (1) The Director shall have the custody and control of all historical records that are or may from time to time be declared by Parliament or under this Act to be of national importance.

(2) It shall be the duty of the Director to ensure proper preservation of all records, under his custody and control, including their essential cleaning and possible processing, necessary repairs, due rehabilitation, suitable storage, systematic arrangement and also their necessary calendaring, cataloguing and indexing for their convenient use.

(3) The Director shall have power to make rules for the proper management of the National Archives of India and its regional Record

Offices, and to provide essential safeguards against any unauthorised removal or loss of the records preserved therein.

5. (1) The Director shall, in consultation with the Indian Historical Records Commission, make rules to provide for—

Admission of persons using the records and the availability thereof.

(a) the admission of such persons as ought to be admitted to the use of the Records, Calendars, Catalogues and Indexes in his custody;

(b) the year to which is limited the privilege of inspecting any records personally by any such person admitted to use the Records;

(c) necessary restrictions regarding the supply of information from the records of certain Ministries of the Government of India, or regarding the personal examination of records and documents of exceptional value, unwieldy, fragile or unfit for production; and

(d) fixing of the amount of fees, if any, to be paid for the use of these records, and for making copies of records, as hereinafter provided, and also for dispensing with the payment of such fees in such cases as he may think fit.

(2) The Rules made by the Director under this section and any order or rule suspending, altering, or cancelling any or all of them shall be laid before both the Houses of Parliament within six weeks after they are so made or, if the Parliament is not in session, at the next meeting of each House of Parliament.

6. (1) Subject to any rules made by him under section 5, the Director may allow copies to be made of any records in his custody, at the request and at the cost of any person desirous of procuring the same; and any copy so made shall be examined and certified as a true and authentic copy by the Director, or by any of his deputies or keepers specially authorised by him in this behalf, and shall be sealed or stamped with the seal of the National Archives of India, and shall be delivered to the party for whose use it was made.

Making of authentic copies of Records and the admissibility thereof in evidence.

(2) Every copy of a record in the custody of the Director, certified as aforesaid, and bearing the seal of the National Archives of India, shall, in every case in which the original of such record could have been received as evidence, be received as evidence in all law courts and legal tribunals and in any committee of either House of Parliament without any further proof thereof.

7. (1) The Director shall receive in his custody and control—

(a) the accumulating non-current records of Parliament and of the Government of India that may be made over to him from time to time under the rules made for regulating the same;

Accessions to the National Archives of India.

(b) any historical records that may be purchased or otherwise acquired by the Government of India for being preserved either in the National Archives of India or in any of its regional Record Offices; and

(c) any records belonging to any State or private owner, either deposited with or gifted to the National Archives of India, and which are deemed to be of sufficient historical or other value and importance for being preserved therein.

(2) The Director shall duly arrange for their proper preservation and management within the meaning of this Act.

Rules as to disposal of valueless documents in the custody of the Director.

8. (1) The Director, with the approval of the Indian Historical Records Commission, and with such further approval or subject to such conditions in the case of certain documents as are hereinafter mentioned, may, if he deems fit, from time to time make, and when made, revoke, add to, and vary, rules respecting the disposal by destruction or otherwise of documents which are in his custody and control and which are not of sufficient value to justify their preservation.

(2) Such rules shall be made—

(a) so far as they relate to documents of Parliament, with the further approval of the Chairman of the Council of States, or the Speaker of the House of People, as the case may be;

(b) so far as they relate to documents from any of the ministries or departments of the Government of India, with the further approval of the Minister or the head of the department concerned; and

(c) so far as they relate to documents other than those mentioned in clauses (a) and (b) or those mentioned in subsection (3), with the further specific approval of the Minister for Education of the Government of India.

(3) Documents deposited with, or gifted to, the National Archives of India by any State or private owner, shall be returned to, or disposed of in accordance with the wishes of, the State or the private owner concerned, if found to be of not sufficient value.

(4) No rule made in pursuance of this section shall provide for the disposal of any document of a date older than the year one thousand eight hundred and eighteen *Anno Domini* (1818 A.D.).

(5) Every rule made in pursuance of this section shall be laid before both Houses of Parliament, and shall take effect only after it has been so laid for a period of not less than ninety days which may be comprised in one session or more than one session and shall

be subject to such modifications as Parliament may make during the said period.

(6) Before any document is disposed of, or returned, under this section, the Director shall cause a schedule to be prepared of all the documents proposed to be disposed of or returned, containing a list of the documents and such particulars as to their character and contents as may be necessary to enable the Houses of Parliament to judge of the expediency of disposing of such documents in the proposed manner; and where there are several documents of the same class or description, it shall be sufficient to classify them, as far as practicable, according to their nature and contents, instead of specifying each document separately.

(7) The power of disposal or return given by this section shall not be exercised in respect of any documents until the schedule referred to in sub-section (6) relating to such documents has been laid before both Houses of Parliament for a period of not less than four weeks, which may be comprised in one session or more than one session.

9. (1) Notwithstanding anything contained in this Act, the Central Government may, pending their ultimate transfer to the custody and control of the Director, enter into necessary arrangements with the State Governments concerned for continuing their present custody and control over the Central Government records of national importance.

Arrangements with State Governments in respect of Central Government Records still in their custody.

(2) Such arrangements shall specifically provide for their proper preservation and due management by the State Government concerned and also for their periodic inspection by the Director.

10. The Minister of Education of the Government of India shall present to both the Houses of Parliament every year a report on the National Archives of India and its regional Record Offices, wherein he shall specifically give—

Annual Report to Parliament.

(i) an account of the work done in pursuance of this Act;

(ii) a return of the amount and the nature of records received by the National Archives of India, and the regional Record Offices; and

(iii) a summary of the reports of the periodic inspections by the Director under section 9 of this Act.

11. The Central Government may, by notification in the Official Gazette, make any other rules for carrying out the purposes of this Act.

Power to make rules.

THE SCHEDULE

(See Section 3)

1. All historical records which, before the passing of this Act, have been under the custody and control of the Director of Archives, National Archives of India, and are being preserved within the meaning of this Act, under his direction and authority either at the National Archives of India, New Delhi, or at any other of its regional Record Offices.

2. All non-current records of the Government of India which have not been transferred to the National Archives of India at the time of the commencement of this Act.

3. All records of the now defunct Residencies and Political Agencies in India, which are still in the custody and control of the State Governments.

4. All records of the merged Indian States, now under the custody and control of State Governments, which have already been earmarked for transfer to the custody and control of the Director of Archives, National Archives of India.

5. All Central Government Records which are still in the custody and control of the State Governments.

6. The records of Chandernagore, Pondicherry and other former French possessions in India.

7. The records relating to the history of freedom movement in India collected by the Board of Editors, History of the Freedom Movement in India, New Delhi, and any other agencies for the purpose of writing that history.

8. The records of the Constituent Assembly of India.

9. The non-current Records of Parliament and of every committee thereof.

STATEMENT OF OBJECTS AND REASONS

The National Archives of India along with its regional Record Offices and other collections of the Central Government Records constitutes one of the few biggest collections of historical records in the world, and the national importance of the same cannot ever possibly be doubted. The imperative need for a Union Archival Law providing for the requisite preservation as well as for the proper management of these important historical records which actually belong to the Government of India, or having been purchased or otherwise acquired, are now in its custody and control cannot be over-emphasised. But the Constitution of India restricts the powers of the Union in this respect, to the historical records declared by or under law made by Parliament to be of national importance. Hence it becomes essential to declare all these and similar historical records to be of national importance. Again, as the Constitution (Seventh Amendment) Act, 1956, has now further provided for the declaration of historical records to be of national importance even under a law made by Parliament, there is the need for an enabling legislation for empowering the Central Government in this respect. Moreover, Article 49 of the Constitution of India enjoins the protection of every object of historical interest (which necessarily includes records also) declared to be of national importance as one of the obligations of the State in its directive principles of State policy. Now, with the momentous political changes that have come about and consequently altered historical perspectives, different regional interests and changed economic and social conditions in the country, the question of preserving all historical records of real national importance, which may be in the possession of any private owners who may not be able to properly preserve them for posterity has definitely become a matter of immediate and vital importance not only to the cause of Indian History but also to the Indian Nation as a whole. This Bill seeks to achieve all these objects. It declares the various historical records now in the custody and control of the Central Government to be of national importance, and duly empowers the Central Government to declare any other such records to be of national importance in future. Again, it not only seeks to provide for the enactment of an essential Union Archival Law, but also provides for the interim arrangements in respect of the Central Government records, which are still in the custody and control of the various State Governments. Finally, it makes an important beginning in fulfilling the duty enjoined on

the Union Government by Article 49 of the Constitution of India by providing requisite facilities for due protection and necessary preservation of all such historical records of real national importance which may be still with private owners.

RAGHUBIR SINH.

EXPLANATORY MEMORANDUM REGARDING DELEGATED
LEGISLATION

Sub-Clause (2) of clause 3 of the Bill empowers the Central Government to declare by a notification in the Official Gazette any other historical records, already in the custody and control of the Director, to be of national importance, but all such notifications shall be laid before both Houses of Parliament and as such shall be subject to proper scrutiny by Parliament itself. Sub-clause (3) of clause 4 of the Bill empowers the Director of Archives, National Archives of India, to make rules relating to the proper management and safe custody of Records, which will mainly relate to the internal administration of the Department. Clauses 5 and 8 give powers to the Director of Archives to make rules regarding the admission of persons using the records and the availability thereof, and for the disposal of valueless documents. It is proposed that all these rules and any amendments thereof, made in consultation with the Indian Historical Records Commission, as also the schedule listing the documents proposed to be disposed of shall be laid before both Houses of Parliament and as such shall be subject to proper scrutiny by Parliament itself. Clause 11 empowers the Union Government to make any other rules by notification in the Official Gazette for carrying out the purposes of this Act. These rules, if any, will be mainly of a routine nature.

Bill No. 1 of 1957

A bill to amend the Companies Act, 1956.

BE it enacted by Parliament in the Eighth Year of the Republic of India as follows:—

1. This Act may be called the Companies (Amendment) Act, Short title. 1957.

1 of 1956. 2. In section 409 of the Companies Act, 1956, after sub-section (1), the following sub-sections shall be inserted, namely:— Amendment of section 409.

65 of 1951.

(1A) Subject to the provisions contained in section 324 where in respect of a company whose undertaking consists of an industry which falls under the First Schedule to the Industries (Development and Regulation) Act, 1951, the Central Government is of the view that owing to a change in the ownership of shares, a change in the Board of Directors or in the managing agents of the company or the termination or non-renewal of the agreement between the company and its managing agents has taken place or is likely to take place and that such change, if permitted, may be prejudicial to the public interest, the Central Government may, by order, direct that the shares concerned in the changed ownership or any part of them as may be specified shall, during such time not exceeding three years as the Central Government may prescribe, carry no voting rights in respect of any matter placed before the company in general meeting which directly or indirectly is calculated to or may bring about a change in the directorate or management.

1 of 1956.

(1B) The provisions of sub-section (1A) shall have effect as from the date of commencement of the Companies Act, 1956.

(1C) Where an application has been made in respect of a company to the Central Government in pursuance of this section, no court shall, until the Central Government's order thereon has been passed, entertain an application made by any members of the company under section 398.

(1D) No suit or other legal proceeding shall lie against the Central Government or the Company or its directors or managing agents or other officer or officers of the company for any damage or loss caused or likely to be caused to anyone by anything which is in good faith done or intended to be done in exercise of the powers conferred on the Central Government by this section or in pursuance of any order of the Central Government promulgated under this section.

STATEMENT OF OBJECTS AND REASONS

Instances have been known where speculating persons have cornered shares of a company with a view to ousting its existing management and themselves usurping control of the company for nefarious purposes or to holding the shares so cornered to ransom against the management and compel it to buy their acquired shares at an unreasonably excessive price, far above the intrinsic value of such shares. Such attempts at disruption of the management of a company may not, in a number of cases, be in the public interest in the context of national planning policies or in the interests of the company itself. Section 409 of the Companies Act, 1956, has been found by practical experience to be inadequate to meet the needs of the situation fully. The present amending Bill proposes to vest in Government powers to control effectively such manouvres by depriving the share-holders concerned in the changed ownership of the right to vote on questions which directly or indirectly would bring about a change in the management of the company. While such shares will carry all other rights such as the right to receive a dividend, right to vote in respect of other matters, etc., the Central Government is now sought to be empowered to impose for a limited time a limited restriction in respect of voting powers so that they may not be exercisable to bring about changes in management, where it is likely to be detrimental to the interests of the company.

R. P. SINHA.

S. N. MUKERJEE,
Secretary.